

House Engrossed Senate Bill

FILED

MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

CHAPTER 187
SENATE BILL 1342

AN ACT

AMENDING SECTION 13-3919, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 34; RELATING TO SEARCH WARRANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-3919, Arizona Revised Statutes, is amended to read:

13-3919. Receipt for property; definitions

A. If an officer takes any property under the warrant, the officer shall give a detailed receipt for the property taken to the person from whom it was taken or in whose possession it was found. If the property was not taken from a person, the officer shall leave the receipt at the place where the property was found.

B. The court may delay for a reasonable period the service of the detailed receipt required by subsection A of this section if all of the following apply:

1. The court finds that there is reasonable cause to believe that the delay is necessary to protect the safety of any person or to prevent flight from prosecution, tampering with evidence, intimidation of witnesses or jeopardizing an investigation.

2. Unless the court finds reasonable necessity for the seizure, the warrant prohibits the seizure of any tangible property, any wire or electronic communication or, except as expressly provided in section 13-3016, any stored wire or electronic information.

3. The warrant provides for service of a detailed receipt within a reasonable period after the execution of the warrant. Extensions FOR A REASONABLE PERIOD OF TIME may be granted, but only on an application and judicial finding. ~~The period of each extension shall not exceed ten days.~~

C. For the purposes of this section:

1. "Electronic communication" has the same meaning prescribed in section 13-3001.

2. "Wire communication" has the same meaning prescribed in section 13-3001.

Sec. 2. Title 13, chapter 38, Arizona Revised Statutes, is amended by adding article 34, to read:

ARTICLE 34. TRACKING AND CELL SITE

SIMULATOR DEVICE SEARCH WARRANTS

13-4291. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CELL SITE SIMULATOR DEVICE" MEANS A PORTABLE DEVICE THAT TRANSMITS OR RECEIVES RADIO WAVES TO IDENTIFY, LOCATE OR TRACK THE MOVEMENTS OF A COMMUNICATIONS DEVICE.

2. "CELL SITE SIMULATOR DEVICE SEARCH WARRANT" MEANS AN ORDER IN WRITING ISSUED IN THE NAME OF THE STATE OF ARIZONA, SIGNED BY A MAGISTRATE, AUTHORIZING A PEACE OFFICER TO IDENTIFY A COMMUNICATIONS DEVICE THROUGH THE USE OF A CELL SITE SIMULATOR DEVICE.

1 3. "COMMUNICATIONS DEVICE" MEANS ANY DEVICE THAT ALLOWS THE
2 DEVICE'S USER TO SEND OR RECEIVE ORAL, WIRE OR ELECTRONIC COMMUNICATIONS
3 OR COMPUTER SERVICES.

4 4. "NON-TARGET DATA" MEANS INFORMATION THAT IS COLLECTED BY A CELL
5 SITE SIMULATOR DEVICE PURSUANT TO A SEARCH WARRANT THAT IS ISSUED UNDER
6 SECTION 13-4293 OR SECTION 13-4294 AND THAT IDENTIFIES A COMMUNICATIONS
7 DEVICE THAT IS NOT RELATED TO THE SUBJECT OF THE SEARCH WARRANT.

8 5. "TRACKING DEVICE" MEANS AN ELECTRONIC OR MECHANICAL DEVICE,
9 INCLUDING A COMMUNICATIONS DEVICE, THAT TRACKS THE MOVEMENT OF A PERSON OR
10 AN OBJECT.

11 6. "TRACKING DEVICE SEARCH WARRANT" MEANS AN ORDER IN WRITING
12 ISSUED IN THE NAME OF THE STATE OF ARIZONA, SIGNED BY A MAGISTRATE,
13 AUTHORIZING A PEACE OFFICER TO TRACK A PERSON OR AN OBJECT THROUGH THE USE
14 OF A TRACKING DEVICE.

15 13-4292. General provisions

16 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, ARTICLE 8 OF THIS
17 CHAPTER APPLIES TO THE USE OF TRACKING DEVICE SEARCH WARRANTS AND CELL
18 SITE SIMULATOR DEVICE SEARCH WARRANTS.

19 13-4293. Tracking device search warrant; issuance; grounds;
20 requirements; notice

21 A. A TRACKING DEVICE SEARCH WARRANT MAY NOT BE ISSUED EXCEPT ON
22 PROBABLE CAUSE, SUPPORTED BY AFFIDAVIT OR OATH, NAMING OR PARTICULARLY
23 DESCRIBING THE PERSON, OR PARTICULARLY DESCRIBING THE PROPERTY, TO BE
24 TRACKED. IF THE MAGISTRATE IS SATISFIED THAT PROBABLE CAUSE EXISTS FOR
25 THE ISSUANCE OF A TRACKING DEVICE SEARCH WARRANT, THE MAGISTRATE SHALL
26 ISSUE THE SEARCH WARRANT COMMANDING THE USE OF A TRACKING DEVICE.

27 B. A TRACKING DEVICE SEARCH WARRANT MAY BE ISSUED ON ANY OF THE
28 FOLLOWING GROUNDS:

29 1. WHEN THE OBJECT TO BE TRACKED WAS USED, IS BEING USED OR IS
30 ABOUT TO BE USED AS A MEANS OF COMMITTING A PUBLIC OFFENSE.

31 2. WHEN THE OBJECT TO BE TRACKED IS IN THE POSSESSION OF A PERSON
32 WHO HAS COMMITTED, IS COMMITTING OR IS ABOUT TO COMMIT A PUBLIC OFFENSE.

33 3. WHEN THE OBJECT OR PERSON TO BE TRACKED CONSTITUTES ANY EVIDENCE
34 THAT TENDS TO SHOW THAT A PARTICULAR PUBLIC OFFENSE HAS BEEN, IS BEING OR
35 IS ABOUT TO BE COMMITTED OR TENDS TO SHOW THAT A PARTICULAR PERSON HAS
36 COMMITTED OR IS COMMITTING THE PUBLIC OFFENSE.

37 4. WHEN THE PERSON TO BE TRACKED IS THE SUBJECT OF AN OUTSTANDING
38 ARREST WARRANT.

39 C. THE TRACKING DEVICE SEARCH WARRANT SHALL AUTHORIZE USE OF THE
40 TRACKING DEVICE ANY TIME OF THE DAY OR NIGHT AND SHALL SPECIFY A
41 REASONABLE LENGTH OF TIME THAT THE TRACKING DEVICE MAY BE USED THAT DOES
42 NOT EXCEED SIXTY DAYS AFTER THE DATE THAT THE TRACKING DEVICE WAS
43 INSTALLED. THE COURT MAY GRANT ONE OR MORE EXTENSIONS OF A TRACKING
44 DEVICE SEARCH WARRANT IF AN AFFIDAVIT IN SUPPORT OF AN EXTENSION IS MADE

1 AND THE COURT MAKES THE FINDINGS REQUIRED BY SUBSECTIONS A AND B OF THIS
2 SECTION. THE PERIOD OF EACH EXTENSION MAY NOT BE LONGER THAN THE
3 AUTHORIZING MAGISTRATE DEEMS NECESSARY TO ACHIEVE THE PURPOSES FOR WHICH
4 THE EXTENSION WAS GRANTED AND MAY NOT EXCEED SIXTY DAYS. IF THE TRACKING
5 DATA IS RECEIVED IN THIS STATE, THE USE OF THE TRACKING DEVICE IS
6 AUTHORIZED UNDER THIS SECTION REGARDLESS OF WHERE THE TRACKING DEVICE IS
7 LOCATED. IF THE TRACKING DEVICE REQUIRES INSTALLATION, THE TRACKING
8 DEVICE SEARCH WARRANT AUTHORIZES THE INSTALLATION, MAINTENANCE AND REMOVAL
9 OF THE DEVICE.

10 D. THE TIME OF SERVICE FOR INSTALLATION OR MAINTENANCE OF A
11 TRACKING DEVICE IS AS PRESCRIBED IN SECTION 13-3917.

12 E. A TRACKING DEVICE SEARCH WARRANT MUST BE INITIATED WITHIN TEN
13 CALENDAR DAYS AFTER THE SEARCH WARRANT'S ISSUANCE OR, IF APPLICABLE, MUST
14 BE DELIVERED TO THE COMMUNICATION SERVICE PROVIDER WITHIN TEN CALENDAR
15 DAYS AFTER THE SEARCH WARRANT IS ISSUED. ON THE EXPIRATION OF THE TEN-DAY
16 PERIOD, THE SEARCH WARRANT IS VOID UNLESS THE TIME IS EXTENDED BY A
17 MAGISTRATE. AN EXTENSION MAY NOT EXCEED TEN CALENDAR DAYS. THE TRACKING
18 DEVICE SEARCH WARRANT MUST BE RETURNED TO A MAGISTRATE WITHIN THREE COURT
19 BUSINESS DAYS AFTER THE AUTHORIZED PERIOD OF THE SEARCH WARRANT
20 EXPIRES. THE RETURN MUST STATE THE TIME AND DATE THAT THE TRACKING WAS
21 INITIATED AND THE PERIOD DURING WHICH THE TRACKING OCCURRED.

22 F. WITHIN NINETY DAYS AFTER THE TRACKING DEVICE'S USE ENDS, A COPY
23 OF THE TRACKING DEVICE SEARCH WARRANT MUST BE SERVED ON THE PERSON WHO WAS
24 TRACKED OR WHOSE PROPERTY WAS TRACKED. SERVICE MAY BE ACCOMPLISHED BY ANY
25 OF THE FOLLOWING METHODS:

26 1. DELIVERING A COPY TO THE PERSON WHO, OR WHOSE PROPERTY, WAS
27 TRACKED.

28 2. LEAVING A COPY AT THE PERSON'S RESIDENCE OR USUAL PLACE OF
29 ABODE, IF KNOWN.

30 3. MAILING A COPY TO THE PERSON'S LAST KNOWN ADDRESS.

31 4. ANY OTHER METHOD THAT THE COURT DIRECTS.

32 G. THE COURT MAY DELAY THE NOTICE OF TRACKING REQUIRED BY
33 SUBSECTION F OF THIS SECTION IN THE SAME MANNER PRESCRIBED IN SECTION
34 13-3919, SUBSECTION B.

35 13-4294. Cell site simulator device search warrant; issuance;
36 grounds; requirements; notice; prohibited uses;
37 non-target data

38 A. A CELL SITE SIMULATOR DEVICE SEARCH WARRANT MAY NOT BE ISSUED
39 EXCEPT ON PROBABLE CAUSE, SUPPORTED BY AFFIDAVIT OR OATH, NAMING OR
40 PARTICULARLY DESCRIBING THE PERSON USING THE COMMUNICATIONS DEVICE TO BE
41 IDENTIFIED. IF THE MAGISTRATE IS SATISFIED THAT PROBABLE CAUSE EXISTS FOR
42 THE ISSUANCE OF A CELL SITE SIMULATOR DEVICE SEARCH WARRANT, THE
43 MAGISTRATE SHALL ISSUE THE SEARCH WARRANT COMMANDING THE USE OF A CELL
44 SITE SIMULATOR DEVICE.

1 B. A CELL SITE SIMULATOR DEVICE SEARCH WARRANT MAY BE ISSUED ON THE
2 FOLLOWING GROUNDS:

3 1. WHEN THE COMMUNICATIONS DEVICE TO BE IDENTIFIED IS IN THE
4 POSSESSION OF A PERSON WHO HAS USED THE COMMUNICATIONS DEVICE, IS USING
5 THE COMMUNICATIONS DEVICE OR IS ABOUT TO USE THE COMMUNICATIONS DEVICE AS
6 A MEANS OF COMMITTING A PUBLIC OFFENSE.

7 2. WHEN THE COMMUNICATIONS DEVICE TO BE IDENTIFIED CONSTITUTES ANY
8 EVIDENCE THAT TENDS TO SHOW THAT A PARTICULAR PUBLIC OFFENSE HAS BEEN
9 COMMITTED OR TENDS TO SHOW THAT A PARTICULAR PERSON HAS COMMITTED OR IS
10 COMMITTING THE PUBLIC OFFENSE.

11 C. THE CELL SITE SIMULATOR DEVICE SEARCH WARRANT SHALL AUTHORIZE
12 USE OF THE CELL SITE SIMULATOR DEVICE ANY TIME OF THE DAY OR NIGHT AND
13 SHALL SPECIFY A REASONABLE LENGTH OF TIME THAT THE CELL SITE SIMULATOR
14 DEVICE MAY BE USED THAT DOES NOT EXCEED SIXTY DAYS AFTER THE DATE THAT THE
15 SEARCH WARRANT WAS SIGNED. THE COURT MAY GRANT ONE OR MORE EXTENSIONS OF
16 A CELL SITE SIMULATOR DEVICE SEARCH WARRANT IF AN AFFIDAVIT IN SUPPORT OF
17 AN EXTENSION IS MADE AND THE COURT MAKES THE FINDINGS REQUIRED BY
18 SUBSECTIONS A AND B OF THIS SECTION. THE PERIOD OF EACH EXTENSION MAY NOT
19 BE LONGER THAN THE AUTHORIZING MAGISTRATE DEEMS NECESSARY TO ACHIEVE THE
20 PURPOSES FOR WHICH THE EXTENSION WAS GRANTED AND MAY NOT EXCEED SIXTY
21 DAYS.

22 D. A CELL SITE SIMULATOR DEVICE SEARCH WARRANT MUST BE INITIATED
23 WITHIN TEN CALENDAR DAYS AFTER THE SEARCH WARRANT'S ISSUANCE. ON THE
24 EXPIRATION OF THE TEN-DAY PERIOD, THE SEARCH WARRANT IS VOID UNLESS THE
25 TIME IS EXTENDED BY A MAGISTRATE. AN EXTENSION MAY NOT EXCEED TEN
26 CALENDAR DAYS. THE CELL SITE SIMULATOR DEVICE SEARCH WARRANT MUST BE
27 RETURNED TO A MAGISTRATE WITHIN THREE COURT BUSINESS DAYS AFTER THE
28 AUTHORIZATION PERIOD OF THE SEARCH WARRANT EXPIRES. THE RETURN SHALL
29 STATE THE TIME AND DATE THAT THE DEVICE WAS USED.

30 E. WITHIN NINETY DAYS AFTER THE CELL SITE SIMULATOR DEVICE'S USE
31 ENDS, A COPY OF THE CELL SITE SIMULATOR DEVICE SEARCH WARRANT MUST BE
32 SERVED ON THE PERSON WHOSE COMMUNICATIONS DEVICE WAS IDENTIFIED. SERVICE
33 OF THE NOTICE MAY BE ACCOMPLISHED BY ANY OF THE FOLLOWING METHODS:

34 1. DELIVERING A COPY TO THE PERSON WHOSE COMMUNICATIONS DEVICE WAS
35 IDENTIFIED AT THE PERSON'S KNOWN PLACE OF RESIDENCE.

36 2. IF THE PERSON'S RESIDENCE IS UNKNOWN, BY MAILING A COPY TO THE
37 SUBSCRIBER OF THE COMMUNICATIONS DEVICE.

38 3. ANY OTHER METHOD THAT THE COURT DIRECTS.

39 F. THE COURT MAY DELAY THE NOTICE OF CELL SITE SIMULATOR DEVICE USE
40 THAT IS REQUIRED BY SUBSECTION E OF THIS SECTION IN THE SAME MANNER
41 PRESCRIBED IN SECTION 13-3919, SUBSECTION B.

42 G. A CELL SITE SIMULATOR DEVICE MAY NOT BE USED TO INTERCEPT,
43 OBTAIN OR ACCESS THE CONTENT OF ANY STORED ORAL, WIRE OR ELECTRONIC
44 COMMUNICATION UNLESS THE INTERCEPTION OR ACCESS IS AUTHORIZED BY

1 CHAPTER 30 OF THIS TITLE. A CELL SITE SIMULATOR DEVICE MAY BE USED TO
2 TRACK A COMMUNICATIONS DEVICE PURSUANT TO SECTION 13-4293.

3 H. IF THE CELL SITE SIMULATOR DEVICE IS USED TO LOCATE OR TRACK A
4 KNOWN COMMUNICATIONS DEVICE, ALL NON-TARGET DATA MUST BE DESTROYED WITHIN
5 SIXTY COURT BUSINESS DAYS AFTER THE RETURN OF THE SEARCH WARRANT TO A
6 MAGISTRATE.

7 I. IF THE CELL SITE SIMULATOR DEVICE IS USED TO IDENTIFY AN UNKNOWN
8 COMMUNICATIONS DEVICE, ALL NON-TARGET DATA MUST BE DESTROYED WITHIN SIXTY
9 COURT BUSINESS DAYS AFTER THE RETURN OF THE SEARCH WARRANT TO A MAGISTRATE
10 UNLESS A COURT ORDERS THE NON-TARGET DATA TO BE PRESERVED.

APPROVED BY THE GOVERNOR APRIL 24, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2017.

Passed the House April 17, 2017,

Passed the Senate February 27, 2017,

by the following vote: 57 Ayes,

by the following vote: 30 Ayes,

1 Nays, 1 Not Voting

0 Nays, 0 Not Voting

[Signature]
Speaker of the House
Jim Drake
Chief Clerk of the House

[Signature]
President of the Senate
Susan Owens
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1342

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

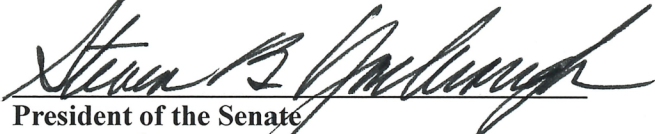
~~_____
Secretary of State~~

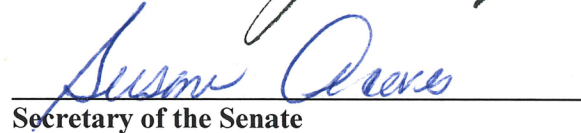
SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 2017

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting


President of the Senate

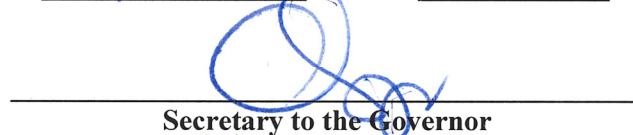

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

19th day of April, 2017

at 11:15 o'clock A. M.


Secretary to the Governor

Approved this 24th day of

April, 2017

at 9:59 o'clock A. M.

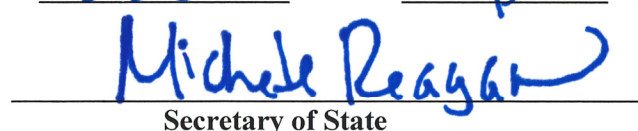

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 24 day of April, 2017

at 12:26 o'clock P M.


Secretary of State